

STATE OF CALIFORNIA
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Gaylord Container Corporation
2301 Wilbur Avenue
Antioch, California

ID No. CAD009148180

Respondent.

Docket HWCA 00/01-1004

CONSENT ORDER

Health and Safety Code
Section 25187

INTRODUCTION

1.1 Parties. The State Department of Toxic Substances Control (Department) and Gaylord Container Corporation (Respondent) enter into this Consent Order as follows:

1.2 Site. Until November 1, 2002, Respondent operated a paper mill that produced recycled, unbleached containerboard and also generated electric power for its own use and for distribution to the grid. Respondent generated hazardous waste at the following site: 2301 Wilbur Avenue, Antioch, California 94509 (Site).

1.3 Generator. The Respondent currently generates hazardous wastes associated with the decommissioning of Site facilities, including residual product and rinsate from numerous above-ground storage tanks that are being cleaned and decommissioned by Respondent's contractor.

1.4 Jurisdiction. Jurisdiction exists pursuant to Section 25187 of the Health and Safety Code.

ALLEGED VIOLATIONS

2. The Department alleges the following violations:

2.1 The Respondent allegedly violated Health and Safety Code section 25201 in that on or about September 23, 1998, the Department discovered that Respondent had mixed sludge generated from Respondent's former operations, which sludge the Department alleges constituted hazardous waste, with soil, and thus that Respondent had allegedly treated hazardous waste

1 without holding a hazardous waste facilities permit or other grant of authorization from the
2 Department.

3 2.2 The Respondent allegedly violated Health and Safety Code section 25201 in that
4 the Department observed that Respondent had stored waste materials from Respondent's
5 operations, which the Department alleges constituted hazardous waste, without a hazardous waste
6 facilities permit or other grant of authorization for hazardous waste.

7 2.3 The Respondent allegedly violated Health and Safety Code section 25189.2 in that
8 the Department observed that Respondent had placed waste materials from Respondent's
9 operations, which the Department alleges constituted hazardous waste, onto the ground, at a point
10 which was not authorized to receive hazardous waste.

11 2.4 Respondent does not admit, and specifically denies, any issue of fact or law
12 alleged by the Department in its investigation. However, Respondent consents to the jurisdiction
13 of the Department for the sole purpose of entry and enforcement of this Consent Order.

14 TERMS OF CONSENT ORDER

15 2.5 No further corrective action or submittal with respect to the violations alleged
16 herein is required pursuant to this Consent Order.

17 2.6 Except as provided in Section 2.8 below, nothing in this Consent Order shall
18 constitute or be construed as a satisfaction or release from liability for any other conditions or
19 claims arising as a result of past, current, or future operations of Respondent. Notwithstanding
20 compliance with the terms of this Consent Order, Respondent may be required to take further
21 actions as are necessary to protect public health or welfare or the environment.

22 2.7 A dispute exists regarding the alleged violations set forth above. The parties wish
23 to avoid the expense of litigation and to ensure prompt resolution of the alleged violations, and
24 enter into this Consent Order without any findings of fact, determinations of law, or the
25 adjudication or admission of any issue of law or fact.

26 2.8 Subject to the provisions of this Consent Order, this Consent Order shall
27 constitute full settlement of, and release of, and covenant not to sue, Respondent and its officers,
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1 directors, managers, employees, and assigns, as well as Respondent's parent and subsidiary
2 corporations, and their subsidiaries, and their collective officers, directors, managers, employees,
3 and assigns (collectively, "Respondent Entities") from the Department for and from further
4 liability for penalties, fines, costs, claims, fees, and damages arising out of: (i) the violations
5 alleged above, and of the allegations and violations alleged and investigated by the Department in
6 the March 1, 2001 Report of Investigation; (ii) any oversight costs or fees or other administrative
7 costs incurred by the Department's staff in connection with that investigation; and (iii) any
8 hazardous waste generator or hazardous waste facility fees or taxes associated with the violations
9 and allegations described above or investigated by the Department in its investigation; provided,
10 however, that nothing in the foregoing shall limit the Department from taking appropriate
11 enforcement action concerning other violations, or from assessing or imposing any appropriate
12 hazardous waste generator or hazardous waste facility fees or taxes concerning such other
13 violations or related to Respondent's ongoing closure and decommissioning activities at the Site.

14 2.9 By entering into this Consent Order, Respondent does not admit and specifically
15 denies the violations alleged above.

16 PENALTY

17 3. Within 30 days of the effective date of this Consent Order, Respondent shall pay
18 the Department a penalty in the amount of \$32,000. Respondent's check shall be made payable
19 to the Department of Toxic Substances Control, and shall identify the Respondent and Docket
20 Number, as shown in the heading of this case. Respondent shall deliver the penalty payment to:

21 Department of Toxic Substances Control Accounting Office
22 1001 I Street, 21st floor P. O. Box 806
23 Sacramento, California 95812-0806

24 A photocopy of the check shall be sent to:

25
26 Michael Berriesford
27 Criminal Investigations Branch
28 Department of Toxic Substances Control
P.O. Box 806

1 Sacramento, California 95812

2 3.1 If Respondent fails to make payment as provided above, Respondent agrees to pay
3 interest at the rate established pursuant to Health and Safety Code Section 25360.1 and to pay all
4 costs incurred by the Department in pursuing collection including attorney's fees.

5 OTHER PROVISIONS

6 4.1 Additional Enforcement Actions: By issuance of this Consent Order, the
7 Department does not waive the right to take further enforcement actions, except to the extent
8 provided in this Consent Order.

9 4.2 Penalties for Noncompliance: Failure to comply with the terms of this Consent
10 Order may also subject Respondent to costs, penalties, and/or punitive damages for any costs
11 incurred by the Department or other government agencies as a result of such failure, as provided
12 by Health and Safety Code section 25188 and other applicable provisions of law.

13 4.3 Parties Bound: This Consent Order shall apply to, and be binding upon and inure
14 to the benefit of, Respondent Entities.

15 4.4 Time Periods: "Days" for purposes of this Consent Order means calendar days.

16 4.5 Integration: This Consent Order constitutes the entire agreement between the
17 parties and may not be amended, supplemented, or modified, except as providing herein.

18 WAIVER OF RIGHT TO A HEARING

19 5. Respondent waives any right to a hearing regarding the violations alleged above or
20 the penalty imposed by this Consent Order.

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25 EFFECTIVE DATE

26 6. The effective date of this Consent Order is the date it is signed by the Department.
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Dated: 6/17/2003

Henry Thatcher
Thatcher
Gaylord Container Corporation
Site Manager

bated: 06/24/03

Michael Berriesford
Michael Berriesford
Supervising Investigator
Department of Toxic Substances Control